



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 5383-99
29 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: CAPT [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 6 Aug 99 w/attachment
(2) BCNR rept to SECNAV BJG Docket No: 7304-98 dtd 2 Nov 98
(3) HQMC MMOA-4 memo dtd 12 Oct 99
(4) HQMC MMPR memo dtd 18 Oct 99
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show the lineal position, date of rank, and effective date in the grade of captain he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 1999 Captain Selection Board, vice the FY 2000 Captain Selection Board. He specifically requested a date of rank and effective date as a captain of 1 January 1999.

2. The Board, consisting of Ms. Gilbert and Messrs. Goldsmith and Silberman, reviewed Petitioner's allegations of error and injustice on 28 October 1999, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. As shown by the report at enclosure (2), Petitioner had a prior case (7304-98) before this Board. After his failure by the FY 1999 Captain Selection Board, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board directed that one of his fitness reports be removed and replaced by another report. This Board then removed his failure of selection. He appeared before the FY 2000 Captain Selection Board with a corrected record and was selected. He was promoted with a date of rank and effective date of 1 August 1999.

c. In correspondence attached as enclosure (3), the HQMC Officer Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division, the office with cognizance over the subject matter of this case, has commented to the effect that Petitioner's request for backdating has merit and warrants favorable action.

d. In correspondence attached as enclosure (4), the HQMC Promotion Branch has commented to the effect that had Petitioner been selected by the FY 1999 Captain Selection Board, he would have been assigned a date of rank and effective date of 1 January 1999.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3) and (4), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

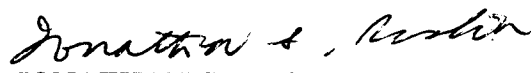
a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of captain as 1 January 1999; and that his lineal precedence be adjusted accordingly.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

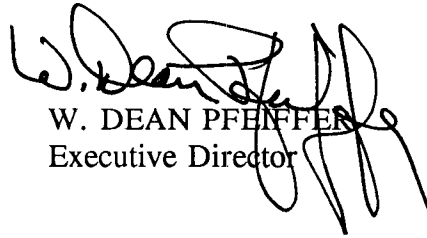
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1600
MMOA-4
12 Oct 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain [REDACTED] SMC
of 8 Oct 99

(b) OFFICER ASSIGNMENT BRANCH COMMENT 1600 MMOA-4 of 6
Oct 98

1. Recommend approval of Captain [REDACTED] request for backdating
his date of rank.

2. Per reference (a), we reviewed Captain [REDACTED] record and
petition. Captain [REDACTED] failed selection on the FY99 USMC
Captain Selection Board. Subsequently, he successfully petitioned
the Performance Evaluation Review Board (PERB) for replacement of
the Grade Change fitness report of 970118 to 970531. The Board
for Correction of Naval Records (BCNR) removed his failure of
selection and he was selected for promotion from the in zone on
the FY00 Captain Selection Board. Captain [REDACTED] requests
backdating of his date of rank.

3. As is evident by Captain [REDACTED] promotion to Captain, our
opinion recommending approval of his request for removal of
failure of selection in reference (b), remains germane.
Therefore, we recommend approval of Captain [REDACTED] request for
backdating his date of rank.

4. Point of contact is [REDACTED] [REDACTED].

[REDACTED]
Lieutenant Colonel, U. S. Marine Corps
Head, Officer Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division

5383-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:

1412/1

MMPR

18 Oct 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF CAPTAIN [REDACTED]

1. If Captain [REDACTED] request for backdating is approved, his date of rank and effective date will be 1 June 1999. This is the date of rank he would have received upon selection from the FY99 USMC Captain Selection Board.

2. Point of contact is [REDACTED] (703) [REDACTED]

[REDACTED]
By direction